

the basis for its exemption under section 501(a). In general, such amounts include amounts received from any activity the conduct of which is substantially related to the furtherance of such purpose or function (other than through the production of income).

(2) Any gain upon the sale or exchange of property which would be considered under any section of the Code as gain from the sale or exchange of a capital asset.

(3) Contributions of services for which a deduction is not allowable.

(c) The term *support from a governmental unit* includes:

(1) Any amounts received from a governmental unit including donations or contributions and amounts received in connection with a contract entered into with a governmental unit for the performance of services or in connection with a government research grant, provided such amounts are not excluded from the term *support* under (b) of this subdivision (ii). For purposes of (b)(1) of this subdivision (ii), an amount paid by a governmental unit to an organization is not received from the exercise or performance of its charitable, educational, or other purpose or function constituting the basis for its exemption under section 501(a) if the purpose of the payment is to enable the organization to provide a service to, or maintain a facility for, the direct benefit of the public, as, for example, the maintenance of library facilities which are open to the public.

(2) Tax revenues levied for the benefit of the organization and either paid to or expended on behalf of the organization.

(3) The value of services or facilities (exclusive of services or facilities generally furnished, without charge, to the public) furnished by a governmental unit to the organization without charge, as, for example, where a city pays the salaries of personnel used to guard a museum, art gallery, etc., or provides, rent free, the use of a building. However, the term does not include the value of any exemption from Federal, State, or local tax or any similar benefit.

(d) The term *indirect contributions from the general public* includes contributions received by the organization

from organizations which normally receive a substantial part of their support from direct contributions from the general public.

(iii) *Determination of whether organization is "publicly supported"*—(a) *In general.* No single test which would be appropriate in every case may be prescribed for determining whether a corporation, trust, or community chest, fund, or foundation, referred to in section 170(c)(2), is "publicly supported". For example, since the statutory test is whether the organization normally receives a substantial part of its support from the prescribed sources, a test which would be appropriate in the case of an organization which has been in operation for a number of years would not necessarily be appropriate in the case of a newly established organization. The determination of whether an organization is "publicly supported" depends on the facts and circumstances in each case. Thus, although a "mechanical test" is set forth in (b) of this subdivision (iii), such test is not an exclusive test. Accordingly, an organization which does not qualify as a "publicly supported" organization by application of the "mechanical test" may qualify as a "publicly supported" organization on the basis of the facts and circumstances in its case. For provisions relating to the facts and circumstances test, see (c) of this subdivision (iii).

(b) *Mechanical test.* An organization will be considered to be a "publicly supported" organization for its current taxable year and the taxable year immediately succeeding its current year, if, for the four taxable years immediately preceding the current taxable year, the total amount of the support which the organization receives from governmental units, from donations made directly or indirectly by the general public, or from a combination of these sources equals 33⅓ percent or more of the total support of the organization for such four taxable years. The rule in the preceding sentence does not apply if there are substantial changes in the organization's character, purposes, or methods of operation in the current year, and does not apply in respect of the immediately succeeding taxable year if such changes occur in

such year. In determining whether the 33⅓-percent-of-support test is met, contributions by an individual, trust, or corporation shall be taken into account only to the extent that the total amount of the contributions by any such individual, trust, or corporation during the four-taxable-year period does not exceed 1 percent of the organization's total support for such four taxable years. In applying the 1-percent limitation, all contributions made by a donor and by any person or persons standing in a relationship to the donor which is described in section 267(b) and the regulations thereunder shall be treated as made by one person. The 1-percent limitation shall not apply to support from governmental units referred to in section 170(c)(1) or to contributions from "publicly supported" organizations. A national organization which carries out its purposes through local chapters with which it has an identity of aims and purposes may, for purposes of determining whether the organization and the local chapters meet the mechanical test, make the computation on an aggregate basis.

*Example.* For the years 1964 through 1967, X, an organization referred to in section 170(c)(2), received support (as defined in subdivision (ii) of this subparagraph) of \$600,000 from the following sources:

Investment income .....	\$300,000
City Y (a governmental unit referred to in section 170(c)(1)) .....	40,000
United Fund (an organization referred to in section 170(c)(2) which is "publicly supported") ..	40,000
Contributions .....	220,000
<b>Total support .....</b>	<b>600,000</b>

For the years 1964 through 1967, X received in excess of 33⅓ percent of its support from a governmental unit referred to in section 170(c)(1) and from direct and indirect contributions from the general public computed as follows:

33⅓ percent of total support .....	\$200,000
<b>Support from a governmental unit referred to in section 170(c)(1) .....</b>	<b>40,000</b>
Indirect contributions from the general public (United Fund) .....	40,000
Contributions by various donors (no one donor having made contributions which total in excess of \$6,000—1 percent of total support) ....	50,000
12 contributions (each in excess of \$6,000—1 percent of total support) 12×\$6,000 .....	72,000
<b>.....</b>	<b>202,000</b>

Since the amount of X's support from governmental units referred to in section 170(c)(1) and from direct and indirect contributions from the general public in the years 1964 through 1967 is in excess of 33⅓ percent of X's total support for such four taxable years, X is considered a "publicly supported" organization with respect to contributions made to it during 1968 and 1969 without regard to whether X receives 33⅓ percent of its support during 1968 or 1969 from such sources (assuming that there are no substantial changes in X's character, purposes, or methods of operation).

(c) *Facts and circumstances test.* (1) A corporation, trust, or community chest, fund or foundation referred to in section 170(c)(2) which does not qualify as a "publicly supported" organization under the mechanical test described in (b) of this subdivision (iii) (including an organization which has not been in existence for a sufficient length of time to make such test applicable) may be a "publicly supported" organization on the basis of the facts and circumstances in its case.

(2) The facts and circumstances which are relevant and the weight to be accorded such facts and circumstances may differ in certain cases depending, for example, on the nature of the organization and the period of time it has been in existence. However, under no circumstances will an organization which normally receives substantially all of its contributions (directly or indirectly) from the members of a single family or from a few individuals qualify as a "publicly supported" organization.

(3) For purposes of the facts and circumstances test the most important consideration is the organization's source of support. An organization will be considered a "publicly supported" organization if it is constituted so as to attract substantial support from contributions, directly or indirectly, from a representative number of persons in the community or area in which it operates. In determining what is a "representative number of persons," consideration must be given to the type of organization and whether or not the organization limits its activities to a special field which can be expected to appeal to a limited number of persons. An organization is so constituted if, for example, it establishes